188/167
Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	)	Group Art Unit: 291
MAG INSTRUMENT, INC.	)	Examiner: M. Tung
Serial No. 07/411,576	)	
Filed: September 22, 1989	)	
For: MINIATURE FLASHLIGHT	)	Los Angeles, CA 90017

DECLARATION OF FRED R. McALISTER

December 16, 1991

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Sir:

I, FRED R. McALISTER, do hereby state as follows:

1. I am Vice President (Corporate Planning) of the Applicant, Mag Instrument, Inc. (hereinafter "Mag").

2. Attached hereto are copies of my declarations dated February 8, 1991, May 28, 1991 and November 21, 1991 filed in connection with a co-pending U.S. Design Patent Application, Serial No. 410,965. The statements made in these attached declarations are true and correct and are adopted herein. To the extent any exhibits to these attached declarations are missing, it is my understanding that they can be found in the file of U.S. Design Patent Application, Serial No. 410,965.

3. The shape of the head of the flashlight shown in the present formal drawings was generated by the method described in my May 28, 1991 declaration and the shape of the head in the present formal drawings is the same shape as the flashlight head shown in the formal drawings of U.S. Design Patent Application, Serial No. 410,965, and the same shape as the flashlight head shown in Figures 2 and 3 of the original drawings which I understand were submitted on September 6, 1984 to the Patent Office as part of the application Serial No. 648,032, now U.S. Patent No. 4,577,263.

4. I declare further all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true. I also declare further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Executed at Ontario, California on the 16TH day of December, 1991.

FRED R. McALISTER

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	)	Group Art Unit 291
ANTHONY MAGLICA	)	Examiner M. Tung
Serial No. 41,965	)	
Filed: September 22, 1989	)	
For: FLASHLIGHT (Design)	)	Los Angeles, CA 90017

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DECLARATION OF FRED McALISTER

February 8, 1991

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

I, FRED R. McALISTER, do hereby state as follows:

1. I am Vice President (Corporate Planning) of the Applicant, Mag Instrument, Inc. (hereinafter "Mag").

2. For the purpose of preparing patent drawings for the above-identified application, I was requested on January 23, 1991 to duplicate the profile of the head of the flashlight shown in Figure 2 of a copy of the first sheet of the original drawings which I understand were submitted on September 6, 1984 to the Patent Office as part of the application Serial No. 648,032, now U.S. Patent No. 4,577,263. A copy of this first sheet of the original drawings is attached hereto as Exhibit A.

3. I duplicated the profile of the head of the flashlight shown in Figure 2 of Exhibit A by the following method:

a. Figure 2 of the drawing which is Exhibit A was overlayed with transparent engineering graph paper with 0.100 inch grid lines;

b. The drawing and engineering graph paper were fixed in position and observed under a ten-power fluorescently illuminated magnifier;

c. Points were plotted and measured in 0.100 inch increments along the curvature of the head or the lines of Figure 2 representing the outside surface of the head;

d. The dimensional data derived from plotting and measuring these points was then, under my supervision, input and plotted on computer aided drafting equipment (Anvil 5000 PC, Version 2.0, DXF);

e. The plot points of the profile of the head were blended using the spline/arc three-point method (beginning, center and end of arc) of the computer software;

f. Using the data generated, the computer aided drafting equipment reproduced the same head profile of Figure 2 of Exhibit A, but in the size shown in the figures of the drawings which now comprise the formal drawings of this present design application (copies of these drawings are attached hereto as Exhibit B);

g. The computer aided drafting equipment with the data integrated into an ink pen plotter (Cal Comp 1025) generated the formal drawings, copies of which are attached as Exhibit B;

4. I declare further that all statements made herein are of my own knowledge are true and that all statements made on information and belief are believed to be true. I also declare further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such wilful false statements may jeopardize the validity of the application or any patent issuing thereon.

Executed at Ontario, California, on this 8TH day of February, 1991.

Fred R. McAlister

Brief

PD 7337

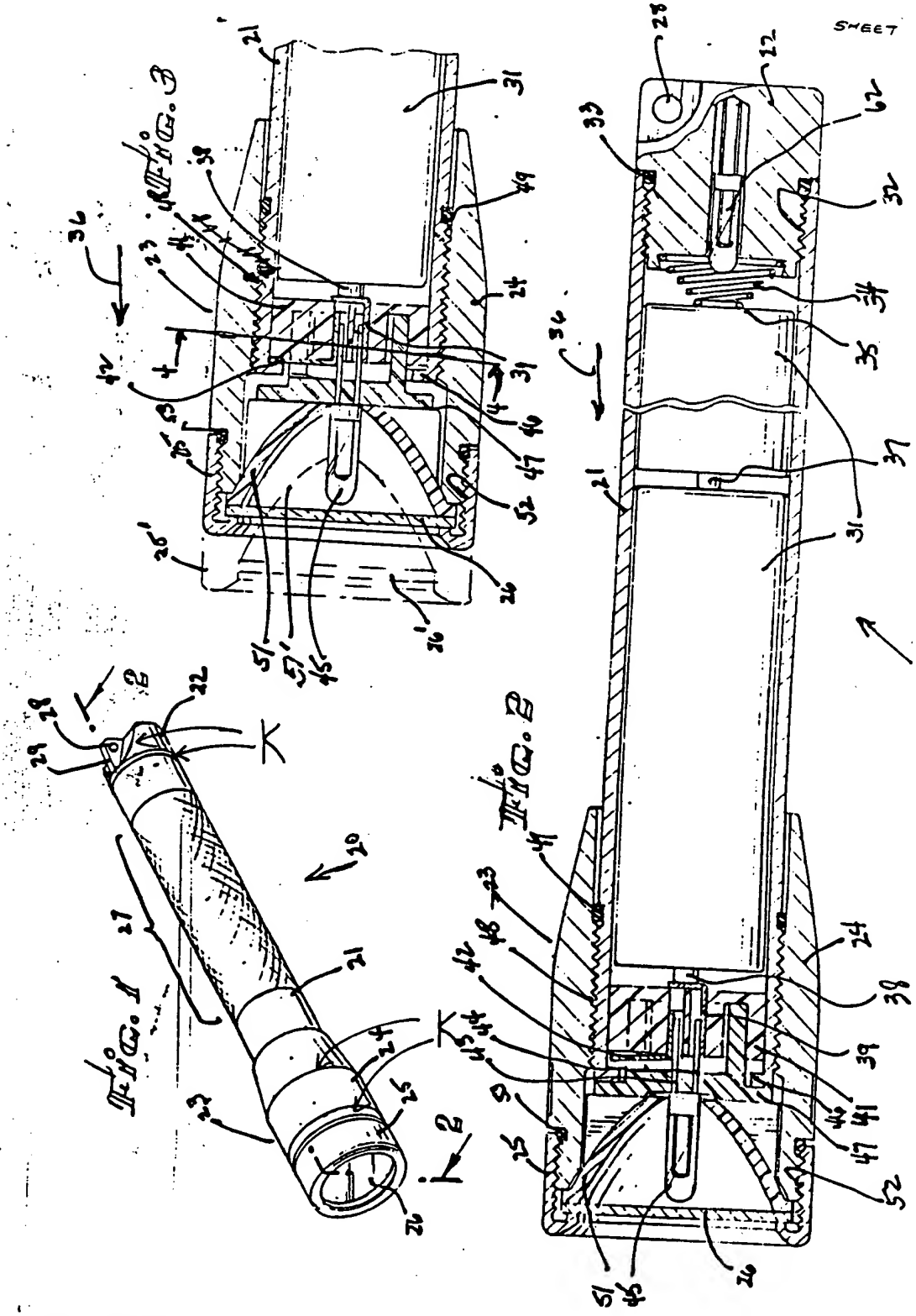


FIG. 1

FIG. 2

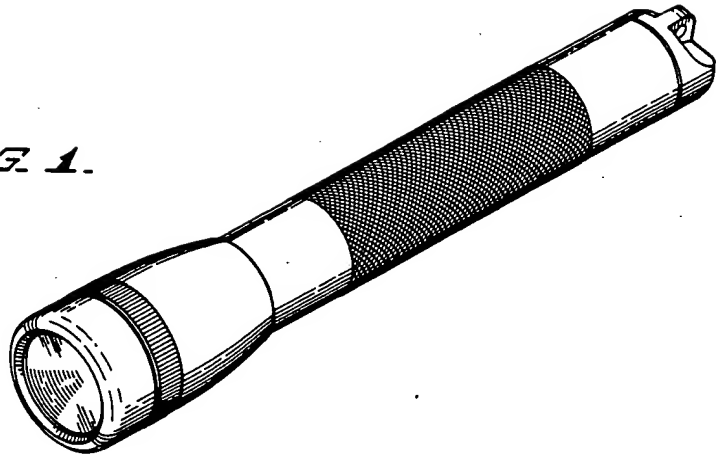
FIG. 3

FIG. 4

EXHIBIT "A"

1191021
WJ 410,960

FIG. 1.



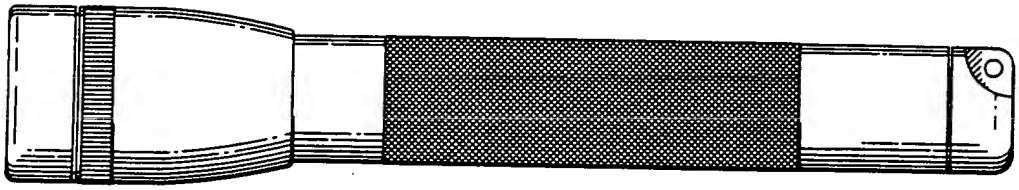


FIG. 2.

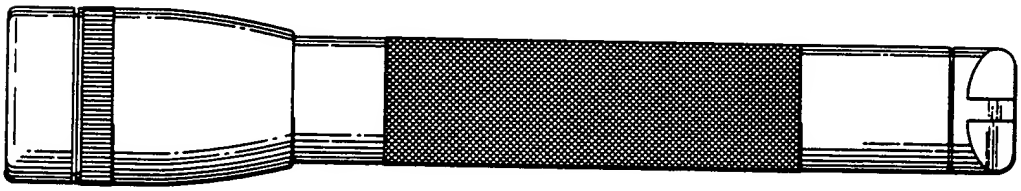


FIG. 3.

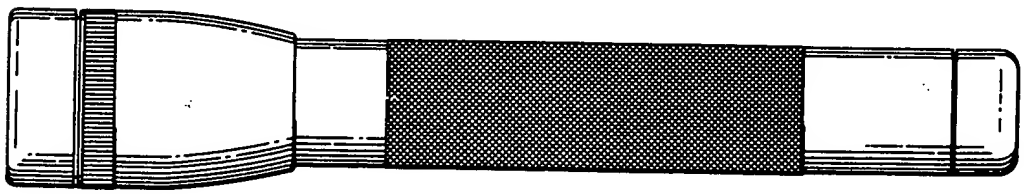


FIG. 4.

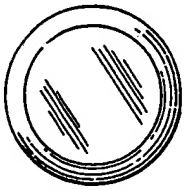


FIG. 5

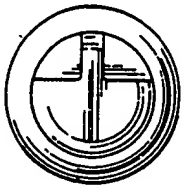
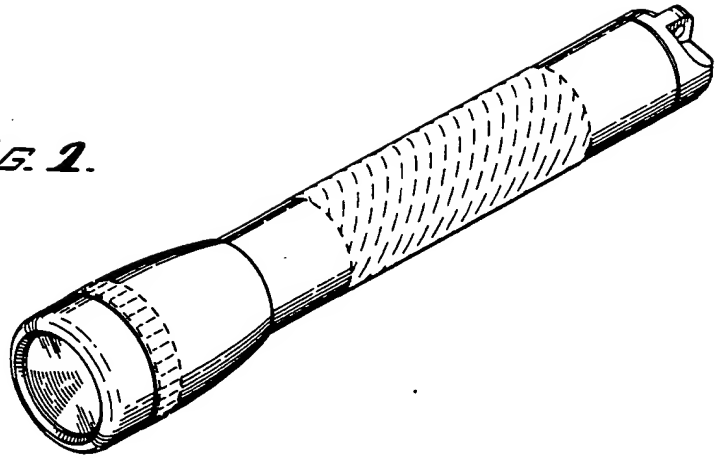


FIG. 6.

FIG. 7.



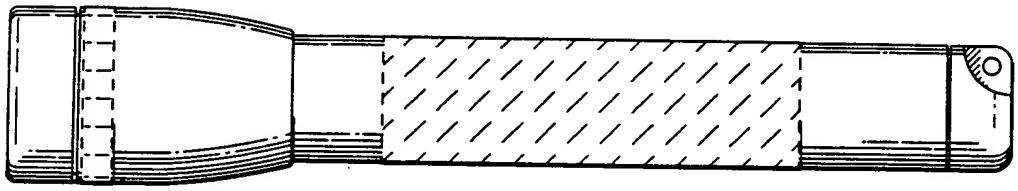


FIG. 8.

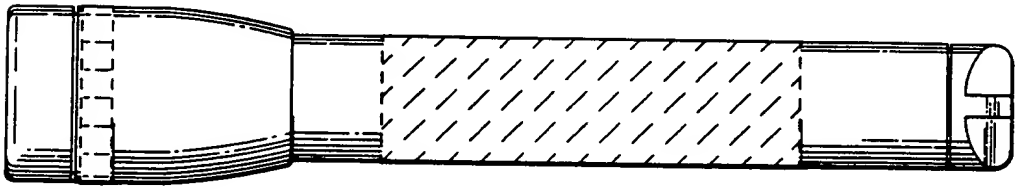


FIG. 9.

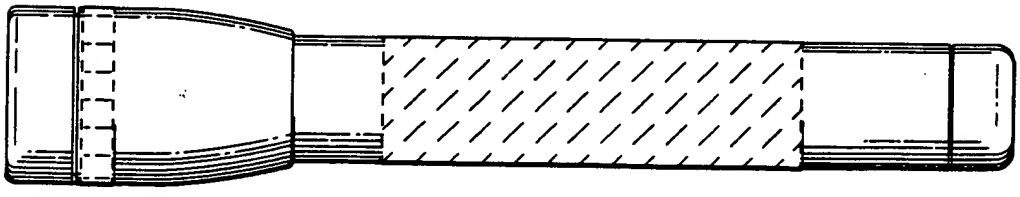


FIG. 10.

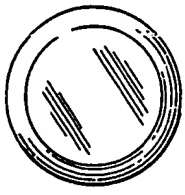


FIG. 11.

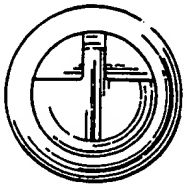
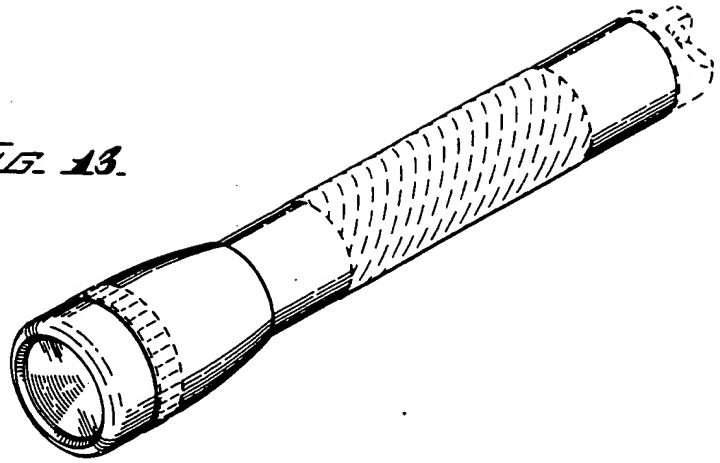


FIG. 12.

FIG. 13.



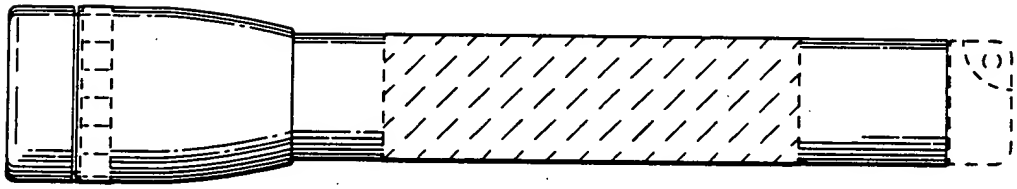


FIG. 14.

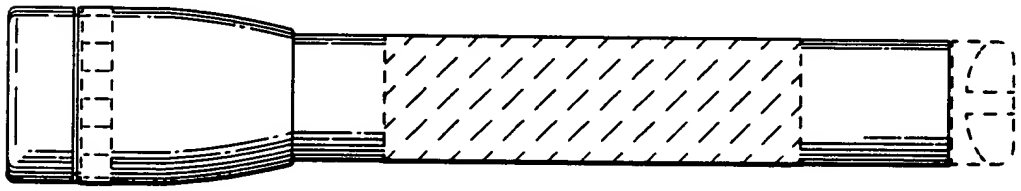


FIG. 15.

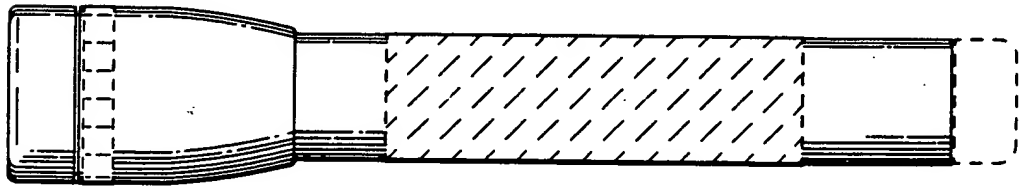


FIG. 16.

FIG. 17.

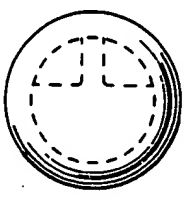


FIG. 18.

EXHIBIT "B"

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	)	Group Art Unit: 291
MAG INSTRUMENT, INC.	)	Examiner: M. Tung
Serial No. 410,965	)	
Filed: September 22, 1989	)	
For: FLASHLIGHT	)	Los Angeles, CA 90017

RESPONSE TO OFFICIAL ACTION MAILED APRIL 12, 1991

May 28, 1991

Honorable Commissioner of
Patents and Trademarks
Washington, DC 20231

Sir:

I, FRED R. McALISTER, do hereby state as follows:

1. I am Vice President (Corporate Planning) of the Applicant, Mag Instrument, Inc. (hereinafter "Mag").

2. I previously submitted a declaration dated February 8, 1991 in connection with the above-identified application.

3. As set forth in my earlier declaration, for the purpose of preparing patent drawings for this above-identified application I took steps to duplicate the profile of the head of the flashlight shown in Figure 2 of a copy of the first sheet of the original drawings which I understand were submitted on September 6, 1984 to the Patent Office as part of the application Serial No. 648,032, now U.S. Patent No. 4,577,263. A copy of this first sheet of the original drawings is attached hereto as Exhibit A.

4. Among the steps previously used were:

a. Figure 2 of the drawing which is Exhibit A was overlayed with transparent engineering graph paper with 0.100 inch grid lines;

b. The drawing and engineering graph paper were fixe in position and observed under a ten-power fluorescently illuminated magnifier;

c. Points were plotted and measured in 0.100 inch increments along the curvature of the head or the lines of Figure 2 representing the outside surface of the head.

5. On or about May 3, 1991, I was requested to vary the steps used before by plotting and measuring points along the curvature of the head of the lines of Figure 2 representing the outside surface of the head in smaller increments in an attempt to more precisely duplicate the profile of the head.

6. Thus, I duplicated the profile of the head of the flashlight shown in Figure 2 of Exhibit A by the follwoing method:

a. Figure 2 of the drawing which is Exhibit A was overlayed with transparent engineering paper and lines were drawn across the head curvature in 0.050 inch increments;

b. The drawing (Exhibit A) and engineering paper were fixed in position and observed under a ten-power fluorescently illuminated magnifier;

c. Points were plotted and measured in 0.050 inch increments along the curvature of the head or the lines of Figure 2 representing the outside surface of the head;

d. The dimensional data derived from plotting and measuring these points was then, under my supervision, input and plotted on computer aided drafting equipment (Anvil 5000 PC, Version 2.0, DXF);

e. The plot points of the profile of the head were blended using the spline/arc three-point method (beginning, center and end of arc) and tangency points were connected with straight lines, as they occurred, using the computer software;

f. Using the data generated, the computer aided drafting equipment reproduced the same head profile of Figure 2 of Exhibit A, but in the size shown in the figures of the drawings which now comprise the formal drawings of the present design application (copies of these drawings are attached hereto as Exhibit B);

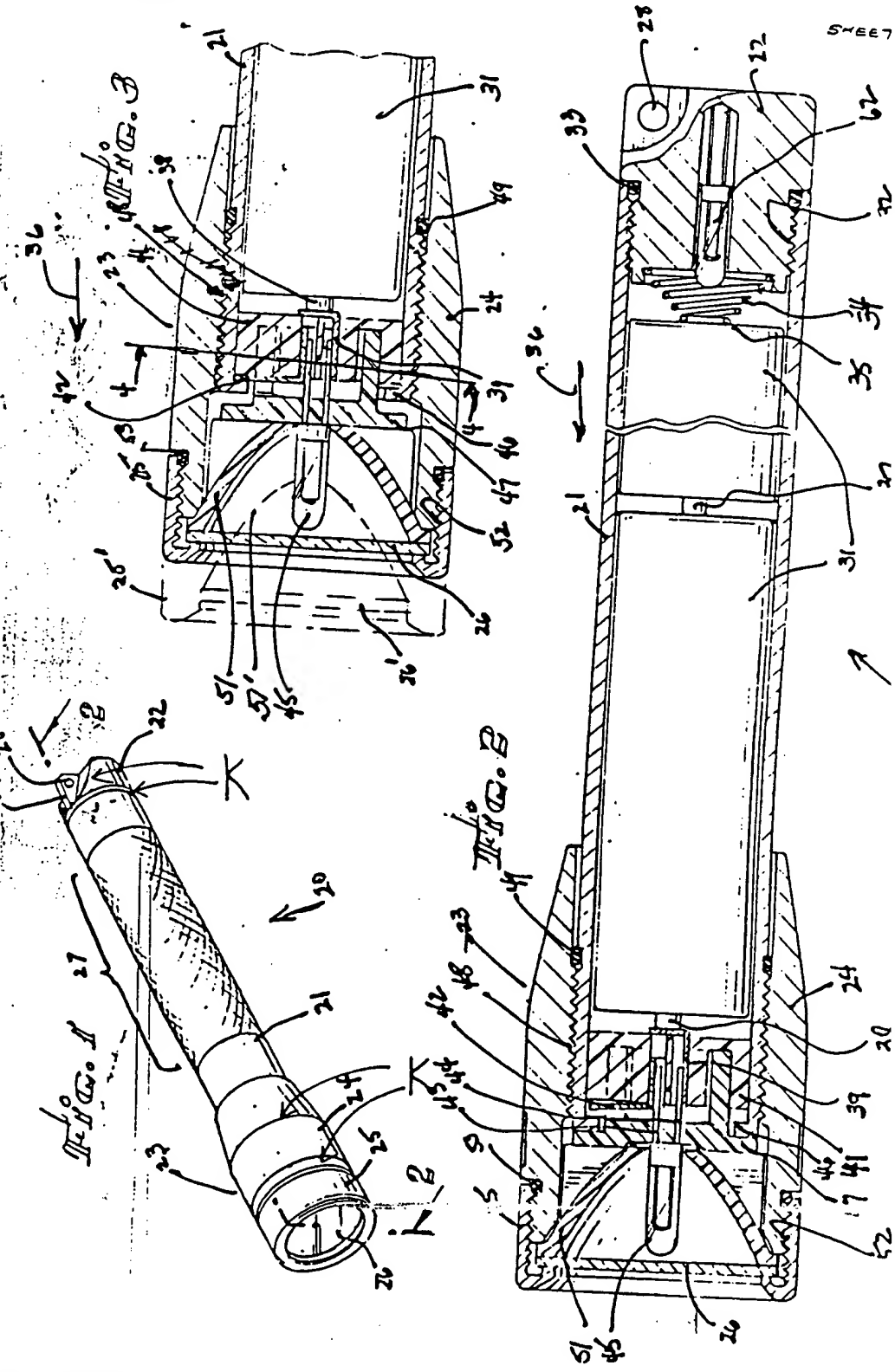
g. The computer aided drafting equipment with the data integrated into an ink pen plotter (Cal Comp 1025) generated the formal drawings, copies of which are attached as Exhibit B.

7. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true. I also declare further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Executed at Ontario, California, on this 28 day of May, 1991.

Fred R. McAlister

PD 7337

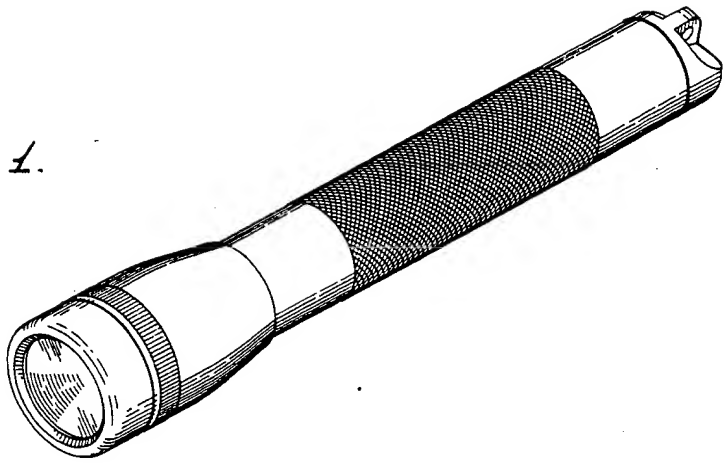


...NG INSTRUMENT

EXHIBIT A

7-23-84

FIG. 1.



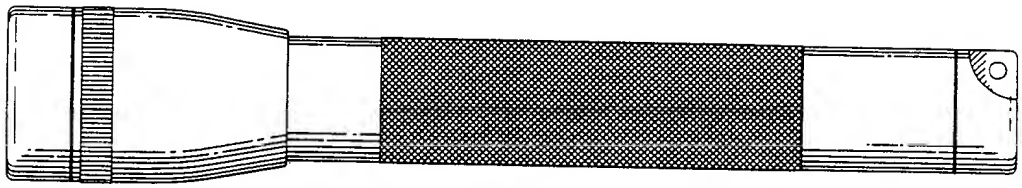


FIG. 2.

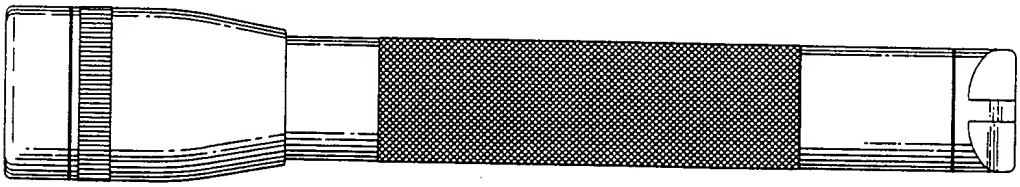


FIG. 3.

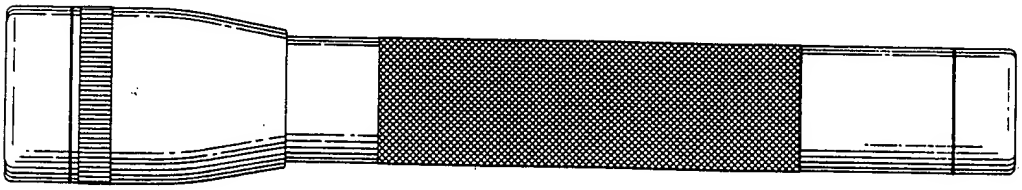


FIG. 4.

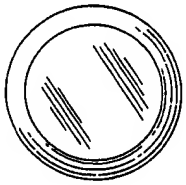


FIG. 5.

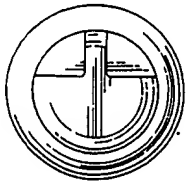
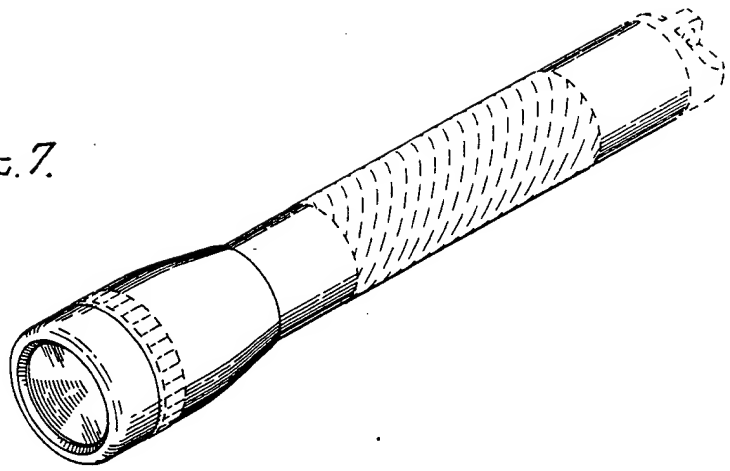


FIG. 6.

EXHIBIT B - 1

FIG. 7.



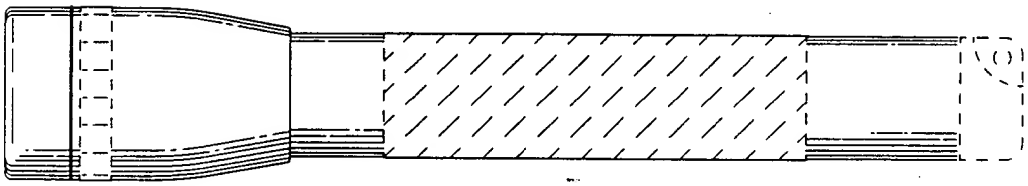


FIG. 8.

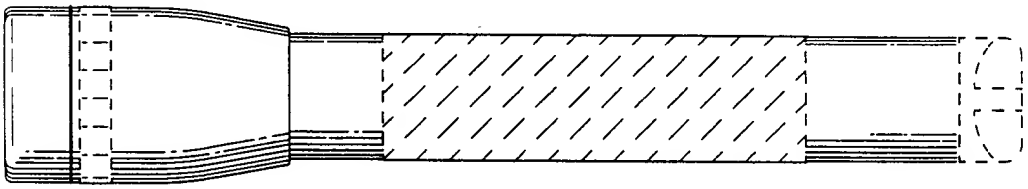


FIG. 9.

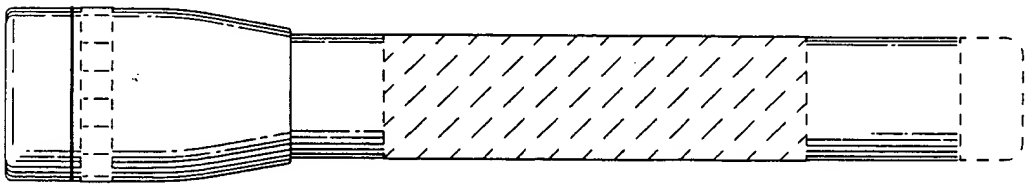


FIG. 10.

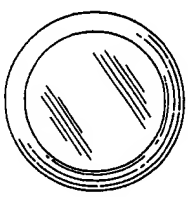


FIG. 11.

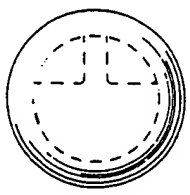
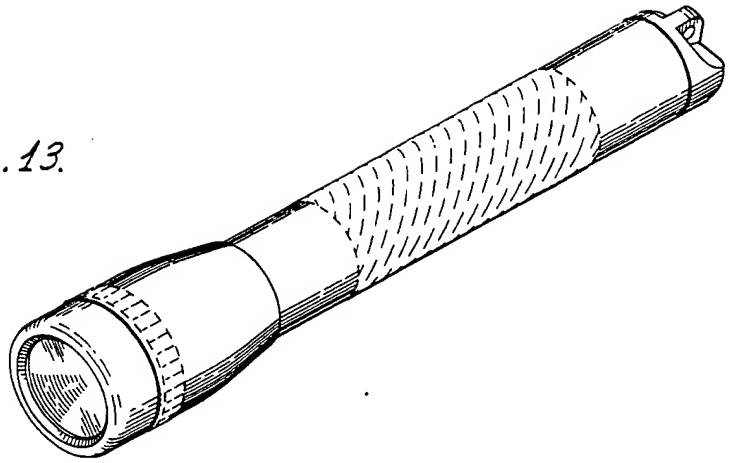


FIG. 12.

FIG. 13.



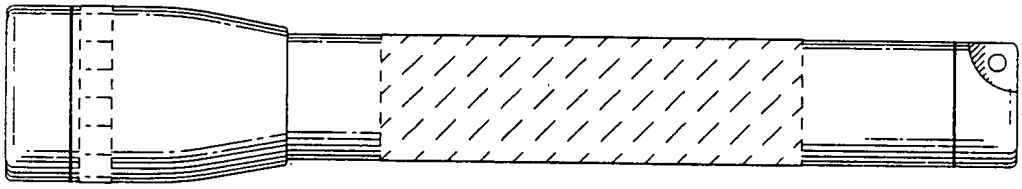


FIG. 14.

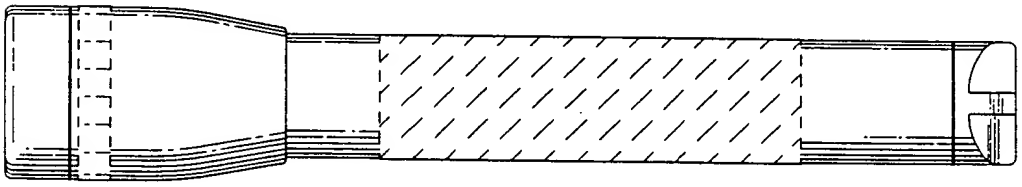


FIG. 15.

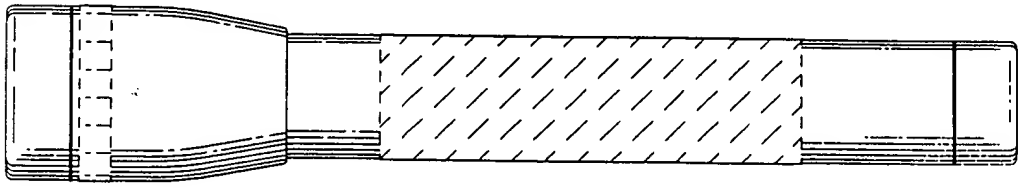


FIG. 16.

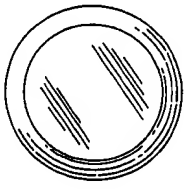


FIG. 17.

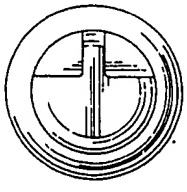


FIG. 18.

179/021
Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	)	Group Art Unit 291
MAG INSTRUMENT, INC.	)	Examiner M. Tung
Serial No. 410,965	)	
Filed: September 22, 1989	)	
For: FLASHLIGHT	)	Los Angeles, CA 90017

DECLARATION OF FRED R. McALISTER
PURSUANT TO 37 C.F.R. 1.195

November 21, 1991

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Sir:

I, FRED R. McALISTER, do hereby state as follows:

1. I am Vice President (Corporate Planning) of the Applicant, Mag Instrument, Inc. (hereinafter "Mag").

2. I have previously submitted a declaration dated February 8, 1991 and a declaration dated May 28, 1991 in connection with above-identified application.

3. I submit this declaration pursuant to 37 C.F.R. 1.195 because the Examiner in her Answer has questioned whether Figure 1 in the original drawings was a mistake (Examiner's Answer, p.8) and because the Examiner's presentation of intersecting lines along the side contour or profile of the flashlight heads shown in the drawings attached to her Answer as Photoprint A and Photoprint B is skewed and misleading.

4. I know that Figure 1 of the original drawings showing a flashlight head with a mid-line around the head is a mistake because I prepared the original engineering drawings which the patent draftsman used to prepare the patent drawings.

5. Attached as Exhibit III is a blueprint of the design layout drawing which I drew on July 18, 1983 and which bears my initials. It is my practice when preparing engineering drawings for a product to prepare first a design layout drawing, then prepare detail component drawings and then prepare a final assembly drawing.

6. Attached hereto as Exhibit IV is a copy of a detail component drawing of the head of the flashlight and which also includes my initials. Certain Mag Confidential and proprietary information on this drawing which is not relevant to the present issue has been blocked out. The original of this drawing was prepared on July 18, 1983. Exhibit IV is the same as the original drawing except, as indicated on the drawing, a revision A was made on March 13, 1985. Revision A changed the original radius of the contour or profile of the curved head from a 4.80 inch radius to a 4.57 inch radius.

7. Attached hereto as Exhibit V is a blueprint of a final assembly drawing which I prepared on April 20, 1984 and which bears my initials. The head of the flashlight of this drawing was made from the Exhibit IV detail component drawing before revision A was made. Thus, the contour or profile of the head in the final assembly drawing, Exhibit V, was not angled, but was curved using the original 4.80 inch radius.

8. The flashlight which is the subject of these engineering drawings, Exhibits III through V, and which is

manufactured by Mag and sold as the Mini Maglite® flashlight has always had a head with a curved contour or profile, but the radius has changed slightly over the years for manufacturing reasons.

9. Attached hereto as Exhibit VI is a copy of the first sheet of the original patent drawings dated July 23, 1984 and which I understand, with the exception of certain notations believed to have been subsequently added by the Examiner in the Patent Office, is a copy of the first sheet of the drawings which were submitted on September 6, 1984 to the Patent Office as part of the application, Serial No. 648,032, now U.S. Patent No. 4,577,263. A comparison of Figure 2 of the original patent drawings, Exhibit VI, with the final assembly drawing, Exhibit V, shows that, with the exception of certain internal components of the bulb holder assembly, Figure 2 of the original patent drawings was copied from the final assembly drawing and therefore includes a flashlight head with the original 4.80 inch radius curved contour or profile.

10. Figure 1 of Exhibit VI is a perspective view which was not copied from any engineering drawings. This figure by the patent draftsman unfortunately included certain mistakes including the mid-line around the head which is marked in red and designated by the letter "X". No mid-line should have been included because as shown in the engineering drawings, Exhibits III, through V, the contour or profile of the head of the flashlight is curved and in particular, as shown in Exhibit IV before revision A, was curved using the original radius of 4.80 inches.

11. The Examiner stated in her Answer that she ". . . does not see the suggestion of the curved, rounded head, with no

distinct change in plane, in the figure views of the parent case, instead, the views support a flashlight head with a distinct intersection" (Examiner's Answer pp. 6-7). To support this position, the Examiner drew intersecting lines along a side contour of the flashlight head shown in the original drawings (Photoprint A) and along a side contour of the flashlight head shown in the present set of formal drawings (Photoprint B). However, the Examiner skewed these intersecting lines in such a way that the results are entirely misleading.

12. In order to demonstrate the inaccuracy and skewed nature of the Examiner's intersecting lines presentation, I caused a series of enlargements to be made. These enlargements were made by an outside company, Faust Printing of Rancho Cucamonga, California, on very high resolution photographic equipment to provide the most exact duplication possible. The enlargements are approximately five times larger than the drawings which were photographed and approximately ten times larger than the actual manufactured component parts.

13. Exhibit VII and Exhibit VIII are blueprints of the photo enlargements of the head of the flashlight shown in Figures 2 and 3, respectively, of Photoprint A which was attached to the Examiner's Answer.

14. Exhibit IX and Exhibit X are blueprints of the photo enlargements of the head of the flashlight shown in Figures 1 and 3, respectively, of Photoprint B which was attached to the Examiner's Answer.

15. Exhibit XI and Exhibit XII are blueprints of the photo enlargements of the head of the flashlight shown in Figures 2 and 3, respectively, of a copy of the first sheet of the

original patent drawings which I understand were submitted on September 6, 1984 to the Patent Office as part of the application, Serial No. 648,032, now U.S. Patent No. 4,577,263.

16. Exhibit XIII and Exhibit XIV are blueprints of the photo enlargements of the head of the flashlight shown in Figures 2 and 3, respectively, of the printed patent drawings of U.S. Patent No. 4,577,263.

17. Exhibit XV is an overlay comprising a bottom opaque sheet and an upper transparent sheet. The bottom opaque sheet is a velox photo enlargement of the head of the flashlight shown in Figure 2 of the first sheet of original patent drawings and made from the same copy from which Exhibit XI was made. The upper transparent sheet is an enlarged exact copy of the profile of the head of the flashlight shown in the present formal drawings and was made using computer-aided drafting equipment as previously discussed in my declarations dated February 8, 1991 and May 28, 1991.

18. By enlarging Photoprints A and B attached to the Examiner's Answer, it can be seen how the Examiner skewed the lines in her intersecting lines presentation to effect the result. As seen in the enlargements of Figures 2 and 3 of Photoprint A, Exhibits VII and VIII, the Examiner, in trying to show that the contour of the head of the flashlight in Figures 2 and 3 of the original drawings conformed to the shape of straight intersecting lines, drew the lines inside the outside edge of the contour line. This is apparent because a portion of the fuzzy or rippled contour line created by poor resolution can be seen on the outside of the straight lines. See in particular the straight line as indicated by the letter "Y" extending from the barrel end of the head in Figure 2, Exhibit VII. This is an

incorrect method because if you wanted to determine whether the surface of an actual part was curved or straight you would place a straight-edge on the surface of the part which would be the equivalent of the outside edge of the contour line, not the inside edge of the contour line. This incorrect method, together with the fact that the Examiner used relatively thick straight lines and, for unexplained reasons, a copy with particularly poor resolution, obscures the space between the intersecting straight lines and the contour line. Applying a correct method of drawing the intersecting lines on the outside edge of the contour line with a precise and relatively thin line, as I did on the opposite contour lines of Figures 2 and 3 in Exhibits VII and VIII, shows that the contour is curved and does not conform to the intersecting lines.

19. Referring now to Exhibits IX and X, which are enlargements of Figures 1 and 3 of Photoprint B, the present formal drawings, the Examiner, in direct contrast to what she did in Photoprint A, drew the intersecting straight lines on the outside edge of the contour line or beyond the outside edge in an obvious attempt to try to demonstrate a difference between the flashlight head contours in Figures 2 and 3 of Photoprint A and the flashlight head contours in Figures 1 and 3 of Photoprint B. To demonstrate the misleading nature of the Examiner's intersecting lines presentation, I applied the Examiner's incorrect method she used in Photoprint A to the enlargements of Photoprint B. By drawing the intersecting lines on the contour line or on the inside edge of the contour line, as I have done in red on the opposite contour line of the enlarged Figures 1 and 3 of Photoprint B, the space between the contour line and the intersecting straight lines is obscured and makes it appear even on the enlarged copy that the curved contour line conforms to the intersecting straight lines.

20. Exhibits XI and XII were made because these were taken from a better resolution copy of the first sheet of the original patent drawings. Note how much heavier the item numbers are in Exhibits VII and VIII, which were made from the copy used by the Examiner as Photocopy A. Again, by applying intersecting lines in the correct method, it is seen that there is a space between the contour of the head of the flashlight in Figures 2 and 3 and the intersecting straight lines and that the contour is curved and does not conform to the straight intersecting lines.

21. Exhibits XIII and XIV were made because these were taken from the printed patent drawings of U.S. Patent No. 4,577,263 and have the best resolution. Again, by applying intersecting lines in the correct method, it is seen that there is a space between the contour of the head of the flashlight in Figures 2 and 3 and the intersecting straight lines and that the contour is curved and does not conform to the straight intersecting lines.

22. Exhibit XV is an overlay which demonstrates that even on a greatly enlarged scale the curved contour or profile of the head of the flashlight in the present formal drawings, as shown in the upper transparency, closely conforms to the contour or profile of the head of the flashlight in Figure 2 of the original patent drawings, as shown in the bottom opaque velox.

23. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true. I also declare further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such

willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Executed at Ontario, California, on this 21ST day of November, 1991.

Fred R. McAlister

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